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BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Revision of Part 22 and Part 90
of the Commission's Rules to
Facilitate Future Development
of Paging Systems

Implementation of Section 309(j)
of the Communications Act --
Competitive Bidding

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) WT Docket No. 96-18
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) PP Docket No. 93-253

To: The Commission

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**REPLY COMMENTS OF AIRTOUCH PAGING
ON THE INTERIM LICENSING PROPOSAL**

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March 11, 1996

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**REPLY COMMENTS OF AIRTOUCH PAGING
ON THE INTERIM LICENSING PROPOSAL**

AirTouch Paging, by its attorneys, hereby files a separate Reply Comment with regard to the Interim Licensing Proposal set forth in the Notice of Proposed Rulemaking, FCC 96-52, released February 9, 1996 (the "Notice") in the above-captioned proceeding.^{1/} In reply, the following is respectfully shown:

^{1/} AirTouch Paging was a party to Joint Comments filed by a coalition of 20 paging carriers, and also is participating in a Joint Reply filed by this same group. See Joint Reply Comments of AACS Communications, Inc. et al. filed concurrently herewith. This separate Reply is being filed by AirTouch Paging with regard to an issue that affects the company because of its current licensee holdings but does not directly affect the other Joint Commenters.

1. AirTouch Paging actively participated in the preparation and filing of a set of Joint Comments in this proceeding that generally advocated a relaxation of the freeze on the acceptance and processing of paging applications.^{2/} Those comments did not take any position with regard to the treatment of shared frequencies on an interim or permanent basis.^{3/}

2. AirTouch Paging noted in reviewing the comments of others in this proceeding that some set forth distinct proposals regarding the interim (and permanent) licensing rules that should apply to shared PCP frequencies.^{4/} AirTouch Paging, which operates on a variety of Part 22 paging frequencies and exclusive 929 MHz PCP frequencies, also owns and operates an extensive paging network on the shared VHF paging frequency 152.48 MHz.^{5/} Because of the substantial

^{2/} See Joint Comments on Interim Licensing Proposals filed March 1, 1996.

^{3/} However, some of the relief sought by the Joint Commenters would have extended to the shared PCP channels.

^{4/} See, e.g., Comments of: A+ Network, pp. 2-5; American Paging, pp. 2-4; Brandon Communications, p. 8; MobileMedia, p. 16; PCIA, pp. 21-23; Preferred Networks, p. 9; Raymond Trott, p. 3.

^{5/} This system recently was acquired by AirTouch from
(continued...)

interest of AirTouch Paging in this shared VHF frequency, the company is submitting this reply to address the issues that are placed under consideration by the comments.

3. AirTouch Paging has been a strong advocate of allowing paging applications in virtually all categories to continue to be filed and processed notwithstanding the proposed move toward market area licensing.^{5/} Consequently, AirTouch Paging would be glad to see the Commission offer broad relief which will permit certain expansions on previously licensed frequencies -- including shared frequencies -- to continue.

4. However, AirTouch Paging shares the concern expressed by A+ Network that, if the freeze is lifted only on shared channels, the market will be artificially skewed in a manner that will foster an inordinate and otherwise unnecessary flood-tide of

^{5/} (...continued)

Massachusetts-Connecticut Mobile Telephone Company pursuant to FCC consent. This system stretches from Virginia to Maine and serves a significant number of local and regional subscribers. AirTouch also is the Northeast affiliate for the Network USA (now A+ Network's) Nationwide affiliate system.

^{6/} See Joint Comments of AACS, AirTouch Paging et al. filed March 1, 1996.

applications for these frequencies.^{7/} This result would be directly contradictory to the stated Commission objective of having the competitive landscape of the paging industry be "dictated by the marketplace, rather than by regulation".^{8/} Thus, while AirTouch Paging is sympathetic to those who seek relief from the freeze, the Commission should offer relief in all adversely affected bands, not just on the shared bands.^{9/}

5. AirTouch Paging begs to differ, however, with A+ Network when it argues that no shared channels are appropriate candidates for auction on a market-area basis.^{10/} AirTouch Paging finds the same considerations that gave rise to "earned" exclusivity on certain 929 MHz PCP channels to pertain to certain

^{7/} See A+ Network Comments, p. 9.

^{8/} Notice, para. 2.

^{9/} AirTouch is especially concerned that, if the freeze continues for any length of time, carriers which have normally used Part 22 frequencies will be forced to use PCP shared channels to meet customer needs. For example, AirTouch Paging believes that the de facto freeze on 931 MHz licensing during the development of the algorithm created an inflated demand for 929 MHz PCP channels.

^{10/} See Comments of A+ Network, pp. 6-9.

other shared channels.^{11/} For example, the extensive 152.48 MHz network AirTouch Paging operates rivals, in terms of geographic coverage and subscriber usage,^{12/} many networks on Part 22 and exclusive 929 MHz PCP frequencies. AirTouch Paging cannot agree that the exclusion of this shared frequency from market-area licensing procedures would be appropriate.^{13/}

6. One possibility, which will be developed in greater detail in AirTouch Paging's comments on the permanent licensing procedures discussed in the Notice, is to adopt different procedures for different shared PCP bands. AirTouch Paging believes that the shared UHF and VHF PCP frequencies support a greater number of wide-area paging systems than do the shared 929 MHz frequencies. Relatively little licensing had taken place in the 929 MHz band when the exclusivity rules

^{11/} For example, the Commission found that exclusivity was a necessary ingredient before wide area systems would develop and substantial capital would be invested in 929 MHz PCP channels.

^{12/} As mentioned earlier, this system extends from Virginia to Maine with over 200 transmitters and a substantial number of customers. This is the equivalent of a region and a half for 929 MHz PCP.

^{13/} A blanket exclusion could lead to even more crowding. This is exactly what the Commission tried to avoid by licensing various 929 MHz frequencies on an exclusive basis.

were taking shape.^{14/} When the 929 MHz PCP exclusivity rules became effective, parties interested in establishing wide-area systems naturally gravitated toward the frequencies on which they could earn exclusivity. Consequently, the Commission might well choose to exempt the 929 MHz shared channels from the market-area licensing auction process, thereby leaving them as an outlet for the smaller carriers who seek to provide a localized service. However, the shared UHF and VHF channels should be treated the same as their Part 22 counterparts.

7. If the freeze is not lifted entirely for the shared VHF and UHF PCP channels, the Commission must, at a minimum, adopt a mechanism to enable licensees on these frequencies to make minor additions or changes to their systems. The Commission correctly found that it serves the public interest to allow Part 22 and 900 MHz Part 90 licensees to add sites to existing systems.^{15/} In an apparent oversight, the Commission did not provide any relief to allow VHF and UHF PCP licensees to add facilities within their

^{14/} To the extent that wide-area systems had started to be licensed, the Commission was able to designate these frequencies as being eligible for exclusivity.

^{15/} See Notice at ¶140.

existing systems to meet market demands.^{16/} The public interest clearly is served by allowing VHF and UHF PCP licensees to add sites to existing systems so long as these sites do not expand the interference contour of the existing system.

8. However, the Commission's rules do not currently define interference contours for VHF and UHF PCP as they do for Part 22 or 900 MHz PCP channels.^{17/} As a substitute, AirTouch Paging recommends that the Commission adopt the interference contour calculations from the corresponding VHF and UHF Part 22 channels.^{18/} Use of the formulas would serve the public interest by allowing market demands for additional service in areas already within an existing interference contour to be met. The Commission should,

^{16/} See Notice at ¶139.

^{17/} VHF and UHF PCP applicants -- like 929 MHz applicants -- are not required to file detailed radio frequency engineering. Although the collection of this data would impose some burden on licensees, the benefit of being able to add interior facilities would outweigh the burden. Indeed, the public interest would clearly be served by allowing these licensees to continue to meet subscriber demands for additional building penetration in interior areas.

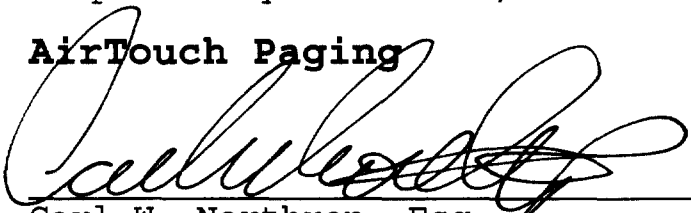
^{18/} See 47 C.F. R. §22.537(d) for VHF. Since there are no dedicated UHF paging channels and thus no solely paging interference contour for these channels, the appropriate interference contour would be the one used for UHF mobile channels found at 47 C.F.R. §22.567(f).

therefore, adopt interference contours on an interim basis for VHF and UHF PCP channels.

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March 11, 1996

Certificate of Service

I, Yvette Omar, a secretary with the law firm of Paul, Hastings, Janofsky & Walker, hereby certify that a copy of the foregoing **Reply Comments of AirTouch Paging on the Interim Licensing Proposal** was sent via first class U.S. mail, postage prepaid, or hand-delivered on March 11, 1996, to the following:

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